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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/537,047

02/08/2006

Mark Geach

613-96

3193

23117

7590

11/16/2007

NIXON & VANDERHYE, PC

901 NORTH GLEBE ROAD, 11TH FLOOR

ARLINGTON, VA 22203

EXAMINER

PESELEV, ELLI

ART UNIT

PAPER NUMBER

1623

MAIL DATE

DELIVERY MODE

11/16/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/537,047

Applicant(s)

GEACH, MARK

Examiner

Elli Peshev

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

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A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 9, 2007 has been entered.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 16, 17 and 25-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Lehmann et al (U.S. Patent No. 6,143,883).

Lehmann et al disclose oral administration of beta-glucan to species which includes fish (column 4, lines 42-68) and further disclose that as a booster of the immune system, said beta-glucan is useful in accelerating wound healing (column 5, lines 29-35). Lehmann et al also disclose oral, parenteral (column 4, lines 42-46) and topical (column 5, lines 21-25) administration of beta-glucan. Therefore, the claimed method of treating wound healing with beta-glucans in aquatic animals is anticipated by the disclosure by Lehmann et al. With respect to claim 31, which is limited to the treatment of inflammation, note that the treatment of a wound inherently encompasses the treatment of inflammation caused by said wound.

Claims 16-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lehmann et al (U.S. Patent No. 6,143,883) in combination with Hayen et al (WO 95/04467)

Lehmann et al disclose administration of glucans to aquatic animals and further disclose the use of said glucans for the treatment of wound healing but do not disclose such administration in combination with vitamin C or a bactericidal agent. However, since administration of glucans in combination with vitamin C and antibiotics was well known in the art at the time of the present invention as disclosed by Hayen et al (page 9, lines 18-24 and page 10, lines 1-5), a person having ordinary skill in the art at the time the present invention was made would have been motivated to add vitamin C and

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an antibiotic to glucans and administer said composition to aquatic animals in order to treat a bacterial infection which can result from a wound.

Claims 16-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rorstad et al (European Patent No. 0 466 037) in view of Lehmann et al (U.S. Patent No. 6,143,883).

Rorstad et al disclose administration of glucans to aquatic animals by oral, aqueous or parenteral administration alone or in combination with vitamins or antimicrobial agents (page 7, lines 37-54) and further disclose that such an administration provides immunostimulating effect (page 3, lines 45-58) but do not disclose a method for the treatment of wound or inflammation. However, since Lehmann et al disclose that glucans are effective in enhancing immune system and therefore are expected to be effective in accelerating wound healing (column 5, lines 29-35), a person having ordinary skill in the art at the time the claimed invention was made would have been motivated to administer glucans disclosed by Rorstad et al to aquatic animals for the purpose of wound healing, which also includes inflammation caused by said wound.

Applicant's arguments filed October 9, 2007 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elli Peselev whose telephone number is (571) 272-0659. The examiner can normally be reached on 8.00-4.30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shaojia Jiang can be reached on (571) 272-0627. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Elli Peselev

elli peselev
ELLI PESELEV
PRIMARY EXAMINER
GROUP 1200